UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION DOCKET NO. 3:09-cv-00465-MOC-DCK

PROSPECT CAPITAL CORPORATION,)	
Plaintiff,)	
Vs.)	ORDER
NATHAN M. BENDER, ET AL.,)	
Defendants.)	

THIS MATTER is before the court on plaintiff's Motion for a Continuance of Trial Due to the Unavailability of a Key Witness. While plaintiff has indicated that Mr. Klaussmann is unavailable, it has not indicated to the court why a *key* witness's deposition was not taken during the five years this case has been pending and why such deposition could not now be taken *de bene esse* and used at trial based on unavailability. The court has a number of concerns as to the timing of this motion and will hear arguments.

ORDER

IT IS, THEREFORE, ORDERED that plaintiff's Motion for a Continuance of Trial Due to the Unavailability of a Key Witness (#135) is **CALENDARED** for hearing on August 12, 2014, at a time to be noticed by the Clerk of Court.

Signed: July 23, 2014

Max O. Cogburn Jr.

United States District Judge